

1 (Accordingly, the question was played back
2 by the court reporter.)

3 MR. EISEN: I have no further questions.

4 JUDGE CHACHKIN: As Mr. Eisen has indicated he has
5 no further questions.

6 Mr. Cole, are you ready to proceed with cross-
7 examination?

8 MR. COLE: Yes, Your Honor, if I could just have a
9 couple of minutes to go organize my notes, I would
10 appreciate it.

11 JUDGE CHACHKIN: Off the record.

12 (Whereupon, a recess was taken.)

13 JUDGE CHACHKIN: Go ahead, Mr. Cole.

14 MR. COLE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. COLE:

17 Q Good morning, Ms. Polivy.

18 You and I are familiar with one another over some
19 years, but for the record I will do it, I will introduce
20 myself. I am Harry Cole, counsel for Press Broadcasting
21 Company.

22 Ms. Polivy, let me clear up a couple of matters
23 that were raised specifically just this morning during your
24 direct testimony.

25 First, you testified that you received in the mail

1 a second -- I'm sorry -- an informal objection filed with
2 respect to the sixth extension request, the June 1991
3 extension request, and that information objection was filed
4 by Press Broadcasting Company.

5 Do you know who sent that to you?

6 A I believe it was Press.

7 Q Thank you.

8 You also mentioned this morning that the Senate
9 had filed a brief in the Metro Broadcasting case in the
10 Supreme Court, in which Ms. Bush was at least somehow
11 involved.

12 Can you recall whether the Senate supported the
13 side of Rainbow Broadcasting or some other party in that
14 case?

15 A It supported the side of Rainbow Broadcasting. Or
16 to put it another way, it supported the FCC's minority
17 broadcasting policy.

18 Q Which was the position that Rainbow was itself
19 supporting as well?

20 A Yes.

21 Q Now, let's go back to the beginning, January of
22 1991, if you could, please.

23 On January 25th, I believe you stated and the
24 Joint Exhibits show that Rainbow, and this would be Rainbow
25 Broadcasting Company, and let me adopt the abbreviation of

1 RBC so that we will be clear that we are talking about Ms.
2 Polivy Broadcasting Company as opposed to any other entity,
3 filed its fifth extension application; is that correct?

4 A That is correct.

5 Q Do you recall when that was granted, that
6 application?

7 A I think -- no, I don't. It was prior to the
8 filing of the informal objection by Press.

9 MR. COLE: Your Honor, if I may approach the
10 witness, I would like to show her something to try to
11 refresh her recollection.

12 JUDGE CHACHKIN: Perhaps you can --

13 MR. COLE: I mean, I have a public notice from the
14 Commission. The public notice is dated February 12. It's
15 Broadcast Actions Report No. 21047, mimeo number 11731,
16 which reflects that as an action of February 5, 1991, the
17 Rainbow Broadcasting application was granted.

18 MR. EISEN: I would like to -- may I see that?

19 MR. COLE: Sure. Absolutely.

20 MR. COLE: I'm sorry, Your Honor. We don't have
21 to even have to worry about this because there is a joint
22 stipulation as to the specific date.

23 JUDGE CHACHKIN: Okay.

24 MR. COLE: So I apologize for that.

25 MR. SILBERMAN: Your Honor, Stipulation No. 14 of

1 Exhibit No. 1.

2 JUDGE CHACHKIN: Let's go back on the record.

3 Stipulation No. 14 you say?

4 MR. SILBERMAN: Yes, Your Honor, of Exhibit No. 1,
5 Joint Exhibit No. 1.

6 JUDGE CHACHKIN: And what date is that?

7 THE WITNESS: It's February 5, 1991.

8 JUDGE CHACHKIN: February 5, okay.

9 JUDGE CHACHKIN: Go ahead, Mr. Cole.

10 BY MR. COLE:

11 Q And, Ms. Polivy, do you recall that the FCC issued
12 a broadcast applications public notice reflecting that
13 acceptance of the Rainbow Broadcasting fifth extension
14 application on February 5, 1991?

15 A I'm sorry?

16 Q The FCC, when it receives applications, I assume
17 you are familiar with this, the FCC issues public notices
18 entitled "Broadcast Applications" which reflect the
19 acceptance for filing of applications.

20 Are you familiar with that process?

21 A I am.

22 Q Are you aware that on February 5, 1991, the
23 Commission issued a broadcast applications public notice
24 reflecting the acceptance --

25 MR. EISEN: Objection, Your Honor.

1 MR. COLE: I am asking her if she is aware.

2 JUDGE CHACHKIN: I will overrule the objection.

3 THE WITNESS: I have no specific recollection of
4 this piece of paper. If you would like me to look at it.

5 MR. COLE: I don't have it with me at this point,
6 but I suspect I will be able to bring one back after lunch.

7 BY MR. COLE:

8 Q Now, you testified, Ms. Polivy, that you received
9 in the mail a service copy of an informal objection or a
10 document entitled "Formal Objection" from Press Broadcasting
11 Company, which was dated February 15.

12 MR. COLE: And again, if I may, approach the bench
13 and show her a copy of the document which I believe she is
14 referring to. I just want her to identify it.

15 JUDGE CHACHKIN: Doesn't she have the documents
16 here? Oh, is this something else?

17 MR. COLE: This is something that is not a joint
18 exhibit. This is something which I was not anticipating
19 offering through her, but I will show it to her since she
20 has testified to it, and I will provide copies for the
21 record later on. And I will show it to counsel for Rainbow.

22 BY MR. COLE:

23 Q Is that the document to which you are referring?

24 A I really cannot tell you. It's entitled "A
25 Informal Objection," and it is dated February 15th. This is

1 not a document that I signed. It's a document signed by Mr.
2 Gordon.

3 Q I understand that. But you testified that you
4 received it.

5 A I received it, but I cannot sitting here tell you
6 that this is the same identical document, if that's what you
7 are asking me to do.

8 JUDGE CHACHKIN: Well, are you aware of any other
9 informal objections filed by Press?

10 THE WITNESS: No, Your Honor, but this doesn't
11 have a date stamp on it. I don't know if this is the
12 document or not. I understand --

13 JUDGE CHACHKIN: Can we stipulate, Mr. Eisen?

14 MR. EISEN: Well, if --

15 JUDGE CHACHKIN: I mean, you can compare the
16 document.

17 MR. EISEN: Is this a document that appeared in
18 the Joint Appendix --

19 MR. COLE: Yes.

20 MR. EISEN: -- Court of Appeals.

21 Well, I will stipulate subject to finding any
22 information otherwise.

23 JUDGE CHACHKIN: All right, the stipulation is
24 accepted.

25

1 BY MR. COLE:

2 Q I would like to refer you, Ms. Polivy, to Footnote
3 No. 1, which appears -- there is text halfway through the
4 first sentence. If you would read the first sentence up to
5 the footnote part, up to the footnote notation, and then
6 read the footnote, I would appreciate that.

7 A You mean Footnote 1?

8 Q Yes. Would you read the first sentence of the
9 text?

10 A "Pursuant to Section 73.35.87 of the Commission's
11 rules," the footnote reads, "Under ordinary circumstances
12 Press would have styled its pleading as petition denied.
13 However, it does not appear that Section 73.35.84 of the
14 Commission's rules contemplates that such pleadings will be
15 filed in connection with applications for extensions of
16 construction permit."

17 Q Did you recall reading that when you received this
18 pleading?

19 A I have no specific recollection of it, but it does
20 comport with my understanding of the Commission's rules.

21 Q Now, you also testified that you subsequent to
22 receiving the informal objection received a petition for
23 reconsideration; is that correct?

24 A Yes, I did.

25 MR. COLE: And, Your Honor, if I may approach the

1 witness again just -- again I was planning to use this
2 through another witness, but I will do it now.

3 Mr. Eisen, for your benefit I am referring to the
4 Press petition for reconsideration filed February 25, '91.
5 I believe you have a copy of it.

6 BY MR. COLE:

7 Q I will show that to the witness. This one does
8 bear a date stamp of receipt by the FCC on February 25?

9 A Yes.

10 Q Is that the pleading to which you are referring?

11 A Yes.

12 This is the one that -- excuse me. This is not,
13 the pleading to which I was referring was entitled "Petition
14 for Reconsideration" had an Appendix A attached to it, which
15 was the informal objection that was filed. This document
16 that you showed me now does not appear to contain that
17 Exhibit A.

18 Q Now, you testified that sometime probably in
19 October 1991 you received the Daniels letter, what we will
20 refer to as the Daniels letter, which is Joint Exhibit No.
21 4, a letter signed by Mr. Douglas A. Sandifer for the
22 Managing Director, addressed to George G. Daniels; is that
23 correct?

24 A That's correct.

25 Q Now, did you read that when you received it?

1 A Yes, I did.

2 Q Did you understand that letter to say that the
3 Rainbow applications were restricted within the meaning of
4 the FCC's ex parte rules?

5 A I understood that to mean that it was restricted
6 as to Mr. Daniels.

7 Q Did you understand -- well, let me refer you to
8 the third paragraph, second sentence, which reads, "Because
9 there was a petition for reconsideration filed in February
10 1991, supplemented June 1991, and an objection filed in July
11 1991, of the grant of the application of Rainbow for
12 extension of construction permit in this matter, the
13 proceeding is considered 'restricted' until such time as a
14 final Commission decision is made and no longer subject to
15 reconsideration or review by the Commission or the courts.
16 (See 47 CFR Section 14.1.208)."

17 Do you see that language?

18 A Yes, I do.

19 Q Now, did you understand that sentence to mean that
20 the Rainbow applications were a restricted proceeding within
21 the meaning of the ex party rules?

22 A No, I understood that to mean that the proceeding
23 was restricted just to Mr. Daniels.

24 Q Okay, you understand -- strike that.

25 Why did you understand that the proceeding was

1 restricted?

2 A Because the face of the rules is quite clear that
3 the proceeding is not restricted as to the formal applicant.

4 Q That's not what I asked.

5 A And Rainbow was the formal application.

6 Q I wanted to know why --

7 A You asked me why I believed it --

8 MR. EISEN: Just -- just -- sorry.

9 THE WITNESS: That's why I believed that.

10 BY MR. COLE:

11 Q Did you read Section 1.1208 which is cited by the
12 Managing Director?

13 A I did.

14 MR. COLE: And, Your Honor, if I may approach the
15 witness, I would like to provide the witness and counsel
16 with copies of Section 1.1208, which I believe is
17 appropriate in view of Rainbow's proffer of Section 1.1204.
18 Provided the Court with two copies.

19 I would like to have this marked as Press Exhibit
20 1, please.

21 JUDGE CHACHKIN: The document described is so
22 marked.

23 (The document referred to was
24 marked for identification as
25 Press Exhibit No. 1.)

1 MR. COLE: Thank you, Your Honor.

2 BY MR. COLE:

3 Q Ms. Polivy, does this Section 1.1208 which I have
4 just handed to you correspond to Section 1.1208 which you
5 reviewed in connection with the Daniels letter?

6 A I --

7 MR. EISEN: I would object to the question only
8 because I don't believe this document is dated. It does say
9 October 1, 1994 edition. From an evidentiary standpoint, I
10 don't think this witness can actually testify or answer the
11 question as posed.

12 JUDGE CHACHKIN: What is your objection?

13 MR. EISEN: My objection is we don't know what the
14 date of this is, and we're talking about a specific time
15 reference; whether or not she reviewed this at some time in
16 1993.

17 I am not saying that it's not the same one. I am
18 just saying that any answer is going to be useless without
19 knowing what the date of this particular document is.

20 JUDGE CHACHKIN: If this document was the rule in
21 existence in 1993 when she read it, what difference does it
22 make if this is a later edition?

23 MR. EISEN: It doesn't. I just don't know if
24 that's a fact.

25 JUDGE CHACHKIN: Well, she could review it and say

1 whether this is the rule that she read at that time or
2 whether it's different.

3 MR. EISEN: No, it --

4 JUDGE CHACHKIN: That's a simple --

5 MR. EISEN: Yes, it's simple except the document
6 itself --

7 MR. COLE: That is fine, Your Honor.

8 MR. EISEN: Okay, Your Honor.

9 JUDGE CHACHKIN: Whether this is the rule that she
10 read, notwithstanding that this is a '94 edition.

11 That's your question, isn't it?

12 MR. COLE: That is correct.

13 MR. SILBERMAN: Your Honor, may I just interject a
14 note here on this?

15 It's the '94 edition, but at the very end of the
16 rule it refers to the Federal Register citations where the
17 rule was amended or adopted, and the last one appears to be
18 October 13, 1987. And it would appear -- while I am not
19 testifying, but I am just trying to clarify this -- it would
20 appear to be the same rule that was in effect at the time of
21 this matter, which is 1993.

22 MR. EISEN: I don't dispute that.

23 JUDGE CHACHKIN: All right. What's your question
24 for this witness? Whether this is the rule that she read?

25 MR. COLE: That's correct.

1 JUDGE CHACHKIN: All right.

2 THE WITNESS: I'm sorry. I am not sure -- when
3 are we talking about when I read it?

4 BY MR. COLE:

5 Q At the time that you received the Daniels letter.

6 A I didn't read it at the time I received the
7 Daniels letter.

8 JUDGE CHACHKIN: But you were familiar with the
9 rules since your testimony is that you felt that it was
10 restricted as to the applicant?

11 THE WITNESS: Yes, I was familiar with it.

12 BY MR. COLE:

13 Q But at the time of the Daniels letter, that would
14 be October 1991, had either of the two Rainbow extension
15 applications, the fifth or sixth extension application, been
16 designated for hearing?

17 A It had not.

18 Q At the time of the Daniels letter in October of
19 1991, had either the fifth or the sixth Rainbow extension
20 applications been the subject of a mutually exclusive
21 application?

22 A It had not.

23 Q At the time of the Daniels letter in October of
24 1991, had any opposition pleadings been filed with respect
25 to either the fifth or the sixth Rainbow extension

1 applications other than those which had been filed by Press
2 Broadcasting?

3 A Yes, but no formal objection had been filed.

4 Q Can you tell me what that other objection was?

5 A Oh, I'm sorry. You said other than --

6 Q Other than Press.

7 A No. I'm sorry. No.

8 Q Press was the only -- the only party that had
9 filed any opposition at all?

10 A That's right, but they had not filed a formal
11 opposition.

12 Q Did you wonder then when you received the Daniels
13 letter why it was that the Managing Director deemed this to
14 be a restricted proceeding under Section 1.1208, which
15 defines restricted proceedings?

16 A No, I didn't because he came out with the right
17 answer that it was restricted as to Mr. Daniels, and I did
18 not then pursue some argument with the Managing Director.

19 Q So you did not call the Managing Director's
20 office?

21 A I did not.

22 Q Did you call anyone at the FCC --

23 A I did not.

24 Q -- to question this?

25 A No.

1 Q Did you notice in reviewing the Daniels letter
2 that I received a carbon copy as well as you?

3 A It was on the letter. I don't have any specific
4 recollection of noticing. I did not give a great deal of
5 consideration to the Daniels letter. I read it when it came
6 in. It was right as to Mr. Daniels. And I put it in a
7 file.

8 MR. COLE: Excuse me just one moment, Your Honor.

9 (Pause.)

10 BY MR. COLE:

11 Q Am I correct in understanding your testimony, Ms.
12 Polivy, that you interpreted or viewed Press's petition for
13 reconsideration filed in February of 1991 as some form of
14 informal opposition?

15 A Among other things, yes, I did. Under the
16 Commission's rules, it was not a formal opposition.

17 Q What rule is that?

18 A 1.1202.

19 Q What does 1.1202 say?

20 A 1.1202 defines what a -- constitutes a formal
21 opposition.

22 Q And what is the definition?

23 MR. EISEN: I think --

24 MR. COLE: To your knowledge. She has testified
25 that she understands these things.

1 THE WITNESS: Well, it would have to be -- well,
2 it's a rule, you know.

3 BY MR. COLE:

4 Q But, no, you are testifying as to what your
5 understanding is because you didn't review the rules, did
6 you?

7 MR. EISEN: Your Honor, objection. I understand
8 that this witness has the ability to testify to a rule. I
9 do think it's unfair if she doesn't have the rule in front
10 of her.

11 JUDGE CHACHKIN: Well, we will give her the rule.

12 MR. COLE: I don't have it with me, Your Honor.

13 I'm sorry.

14 JUDGE CHACHKIN: Well, I have the rules.

15 THE WITNESS: I have a copy.

16 JUDGE CHACHKIN: Oh, she has her own copy, so she
17 does have the rules.

18 THE WITNESS: Would you like me to read it to you,
19 Mr. Cole?

20 JUDGE CHACHKIN: Well, that wasn't the question.

21 Why don't you repeat your question, Mr. Cole, or
22 have it read back?

23 MR. COLE: I would like to have it read back if we
24 could, Your Honor.

25 JUDGE CHACHKIN: All right.

1 (Accordingly, the question was played back
2 by the court reporter.)

3 JUDGE CHACHKIN: All right, go ahead, Ms. Polivy.

4 THE WITNESS: 1.1202(e) defines formal opposition
5 or a complaint. And the particular section to which I was
6 referring is little (i) that says, "The caption and text of
7 the pleading make it unmistakably clear that the pleading is
8 intended to be a formal opposition or formal complaint."

9 Now, Press's petition for reconsideration made it
10 unmistakably clear that what that petition for
11 reconsideration was was a resubmission of the informal
12 objection that had been late filed. Consequently, it could
13 not be a formal opposition or complaint in my mind, which
14 was the basis for my saying that I do not consider that a
15 formal pleading, because the Commission's rules make that
16 definition.

17 BY MR. COLE:

18 Q Now, as you read Section 1.1202(e) (i), which you
19 just referred to --

20 A Yes.

21 Q -- where it refers to "The caption and the text of
22 a pleading make it unmistakably clear that the pleading is
23 intended to be a formal opposition," is that correct?

24 A That is correct.

25 MR. COLE: May I approach the witness, Your Honor?

1 JUDGE CHACHKIN: Go ahead.

2 MR. COLE: And refer her to Press petition for
3 reconsideration filed February 25, 1991. And ask her to
4 read the last sentence on that line, which rolls over onto
5 the next page, which begins, "Now, in light of the fact..."

6 A "...that -- that Rainbow's application had been
7 granted prior to the filing of the Press's objection, hereby
8 formally seeks reconsideration of the grant for all the
9 reasons set forth."

10 But then Mr. --

11 Q Well, now --

12 A -- Cole, you abandoned your original objection as
13 to --

14 Q Will you answer the question?

15 A -- the basis for your request for reconsideration.

16 Q So the petition for reconsideration specifically
17 stated, as you just read it, that Press was seeking formal
18 review; is that correct?

19 A That is correct, yes.

20 Q thank you.

21 MR. COLE: And, Your Honor, I do not know whether
22 I have -- I have had it marked for identification, just to
23 keep up with things I would like to offer into evidence
24 Press Exhibit No. 1, which is just a copy of Section 1.1208
25 so the record will be clear.

1 JUDGE CHACHKIN: Any objection?

2 MR. EISEN: No objection.

3 MR. COLE: Thank you, Your Honor.

4 JUDGE CHACHKIN: Press Exhibit 1 is received.

5 (The document referred to,
6 having been previously marked
7 for identification as Press's
8 Exhibit No. 1, and was
9 received in evidence.)

10 BY MR. COLE:

11 Q All right, now, I apologize for -- I may retraced
12 a little bit of ground, Ms. Polivy, but just to get myself
13 back on track, you received the Daniels letter. You did not
14 review -- you received the Daniels letter and you did not
15 review Section 1.1208 at that time; is that correct?

16 A My recollection is I did not.

17 Q And you did not call Mr. Sandifer to discuss the
18 letter with him?

19 A No.

20 Q And you did not call anyone else at the FCC staff
21 at any level to discuss this letter with them?

22 A No.

23 JUDGE CHACHKIN: Are we ready for a 20-minute
24 recess?

25 MR. COLE: Can we go off the record, Your Honor.

1 (Discussion off the record.)

2 BY MR. COLE:

3 Q And also going back to your -- to the time period
4 of October 1991 when you received the Daniels letter, did
5 you review any of the ex parte rules at that time?

6 A I have no recollection.

7 Q And that would be any section or subsection of the
8 rules -- the FCC rules beginning at Section 1.1200 and
9 following on to, I think it's 1205.

10 JUDGE CHACKIN: Is your answer that you did not
11 review it at that time?

12 THE WITNESS: Yes.

13 BY MR. COLE:

14 Q Now, you testified earlier this morning, Ms.
15 Polivy, as I understood it at least, and please correct me
16 because I am not trying to mischaracterize your testimony
17 obviously, but I believe you testified that prior to Mr.
18 Stewart's letter granting Rainbow's petition for
19 reconsideration, and that letter appears at Joint Exhibit
20 No. 9, and Mr. Stewart's letter is dated July 30, 1993, that
21 prior to that date no one on the Commission staff had
22 informed you that the Rainbow proceeding were restricted
23 under the ex parte rules; is that correct?

24 A Other than what I had testified to with respect to
25 my conversation prior to the meeting with Clay Pendarvis,

1 and possibly the same kind of conversation with Roy Stewart,
2 there had been no discussion with me whatsoever of the ex
3 parte rules by any FCC staff member.

4 Q Is it your testimony then that you did not in
5 conversations between you and Paul Gordon, the staff
6 attorney in the Television Branch, Mr. Gordon did not say
7 anything to you about the restricted nature of this
8 proceeding under the ex parte rules?

9 A No, he didn't. And, in fact, the day that he read
10 me the staff decision on -- the initial staff decision on
11 Rainbow's extension, and I asked him if Clay Pendarvis would
12 meet with me, he said, "Well, I don't know. It's up to
13 him."

14 Now, if Mr. Gordon thought that the ex parte rules
15 restricted this proceeding, I don't think he would have said
16 that to me at this time.

17 MR. COLE: Move to strike, Your Honor. I don't
18 understand how Ms. Polivy can crawl into Mr. Gordon's mind
19 and understand what he was thinking.

20 JUDGE CHACHKIN: Sustained.

21 MR. COLE: Thank you, Your Honor.

22 JUDGE CHACHKIN: The answer is stricken.

23 Go ahead with your questions. Now, it is true,
24 isn't it, Ms. Polivy, that you did speak with Paul Gordon on
25 a number of occasions prior to June 18, 1993?

1 A Yes, I did.

2 Q With respect to the Rainbow applications?

3 A Yes, I did.

4 Q Do you recall the dates of those conversations?

5 A Not offhand. I have given you copies of our
6 billing ledgers which would indicate dates.

7 MR. COLE: Okay, Your Honor, I would like to have
8 marked as Press Exhibit No. 2. Ms. Farhat will be passing
9 two copies to the reporter and copies to Your Honor, the
10 witness and counsel, a document which is seven pages in
11 length with an unnumbered and unpaginated cover page bearing
12 the title, "Press Broadcasting Company Hearing Exhibit No."
13 and write in No. 2 there, assuming that you will identify it
14 has such, and then it bears the further title, "Excerpt from
15 Renouf and Polivy Billing Ledger."

16 I would like to have that marked as Press Exhibit
17 No. 2.

18 JUDGE CHACHKIN: The document described is marked
19 as Press Exhibit No. 2.

20 (The document referred to was
21 marked for identification as
22 Press Exhibit No. 2.)

23 BY MR. COLE:

24 Q Ms. Polivy, do you recognize this document with
25 the exception of the cover page which I have added on for

1 the convenience of the parties?

2 A Yes, I do.

3 MR. COLE: Also, Your Honor, just for the record
4 let me state that with respect to the exhibits we have
5 prepared pursuant to Your Honor's direction, we have typed
6 in, in the upper right-hand corner, pages within each
7 exhibit. So it may appear not on this exhibit, but on some
8 exhibits that we will offer in the future, multiple page
9 numbers, but there will always be a page number in the upper
10 right-hand corner which relates to this particular exhibit,
11 just so we will all be reading off the same page, hopefully.

12 BY MR. COLE:

13 Q Ms. Polivy, can you tell me what this document is?

14 A These are excerpts from the Renouf & Polivy's
15 billing ledger.

16 Q And are these excerpts for the billing ledger with
17 respect to Rainbow Broadcasting Company?

18 A Yes, it is.

19 Q Now, turn to page, numbered page 1, please. And I
20 apologize for the somewhat unclear copy, but I'm afraid that
21 is what I was given to work with, and I assume you have seen
22 the original.

23 Can you clarify for me that this was a ledger page
24 for the year 1993, and that's what that "3" in the upper
25 left-hand corner is?

1 A I believe it was.

2 Q That was within the scope of the discovery request
3 to which this was provided, in response to which this was
4 provided?

5 A Yes.

6 Q And it's my understanding that this covers the
7 period, and I believe it's either January or February 1993
8 through, on page 7, June of 1994.

9 If you would confirm that, I would appreciate
10 that?

11 A As far as I know, that is correct.

12 Q Now, let's look at the first entry on page 1 which
13 reflects the number 26.

14 Am I correct in assuming that is a date?

15 A That is a date.

16 Q And then the words "Paul Gordon." Is that "one-
17 half"?

18 A Yes.

19 Q And then a comma, and then "Pendarvis one-half"?

20 A That's correct.

21 Q What does that entry mean?

22 A That entry means that a half-hour of my time was
23 spent either talking to or trying to contact Paul Gordon.
24 The same is true of Clay Pendarvis.

25 Q So this would not necessarily reflect your

1 testimony today, or according to your testimony today that
2 you actually had a conversation of a half-hour in length
3 with Paul Gordon?

4 A No, it does not. It may be an aggregate of
5 several attempts to reach Paul Gordon or Clay Pendarvis.

6 Q And you would bill the client for those attempts?

7 A That may or may not be billed, but it is recorded.

8 Q Do you recall whether you in fact spoke with Mr.
9 Gordon on this occasion?

10 A I believe that I did speak at least to Paul
11 Gordon, asking him -- at some point asking him when
12 Rainbow's applications would be acted on.

13 Q Okay, now --

14 A I am not sure about Mr. Pendarvis, whether I spoke
15 to him or not. It's difficult to tell.

16 Q Could you turn to page 2, please?

17 And there, again, am I correct that the entry for
18 June 1, 1993, reflects "Paul Gordon, one-quarter"?

19 A Yes.

20 Q And on June 2, "Paul Gordon, one-half?"

21 A Yes.

22 Q On June 17, "Paul Gordon, one-quarter"?

23 A Yes.

24 Q And also on June 24, "Paul Gordon, one-half"?

25 A Yes.